

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

**Name:** Name suppressed (PC)

**Date received:** 26 February 2017

---

Partially  
Confidential

## Key Issues

- Lack of Supervision
- Non Safe & Supportive Environment
- Negligence
- Assault
- Physical & Psychological Restraints
- Wrongful Imprisonment
- Threats of Authority
- Poor Reporting & Investigation Skills
- Lack of Appropriate Action

## Evidence

- Breach of Duty of Care
- NESA (Previous BOSTES) investigation outcome - Inspector found during 2012/13 the school did not supply evidence of fully implementing some aspects of their policies & procedures.

## Case Study

2012

### Second Year at [REDACTED] School

- New Classroom, New Classmates, New Teacher – Ms [REDACTED]
  - Feedback from the beginning of this year was up and down as per communication book. A lot of comments such as [REDACTED] is restless, unsettled, demonstrating refusal, protesting, making high pitch noises, is impatient, he pushes through anything and anyone ect....
  - **27 March** Individual Education Plan meeting.
  - **2 April** notified Class Teacher via communication book and followed up by phone call that I witnessed some interaction between [REDACTED] and another student, this student was teasing [REDACTED] by putting down his ability to do certain tasks. [REDACTED] went into immediate shut down and then melted down, the result of this being that we had to leave the event we were attending. Class Teacher was aware of the interaction as she too witnessed it happen.
    - o Student made statements such as “[REDACTED] is stupid, he doesn’t know how to do anything”. These statements were very detrimental to [REDACTED] self-confidence (on this day) and parents feel that needed to be brought to the schools attention.
- [REDACTED] also told us that this student did this too him all of the time. I was advised in writing that staff would keep an eye on this, by Class Teacher, and Principal [REDACTED]

- **16 April** After consultation with Paediatrician Dr [REDACTED] about [REDACTED] newly raised levels of anxiety, and behaviour changes, being reported to us from School. [REDACTED] was diagnosed with Considerable Reactive Anxiety Symptoms – and began taking medication - Lovan 20.
- **8 May** I was notified in writing (via communication book) by Class Teacher that School were keeping “a bit of a record of behaviour” regarding [REDACTED]
- **10 May** A month on Lovan 20 and we were noticing symptoms such as over tiredness, twitching of the face/eye and a blank stare. Another consultation with Paediatrician Dr [REDACTED] resulted in Lovan 20 being reduced to Lovan 10.
- **23 May** Not a great week at School for [REDACTED] I was informed (via communication book and phone calls).
- **3 June** [REDACTED] was very unwell, he was febrile and diagnosed with Appendicitis and Phlegmon after being taken to Campbelltown Hospital by his parents.
- **17 July** [REDACTED] admitted to Sydney Children’s Hospital for surgery – Appendectomy.
- **27 July** I was notified (via communication book) for the FIRST time that [REDACTED] was lashing out/being physical towards other Students and Teachers.
- **3 August** I notified Class Teacher in writing (via communication book) of a conversation between myself and [REDACTED] where he said he was upset because he didn’t like *“being taken out of the classroom, by the hand and it hurt”* He said he “didn’t like [REDACTED]” (Teacher’s aide) and that *“[REDACTED] is mean to me, and he needs me to talk to the teachers about this”*.
- **20 August** Notified School (via communication book) that [REDACTED] behaviours at home where noticeably changing. He was becoming very agitated, anxious, non-cooperative, and getting physical. Never had he been like this at home prior. Teacher responded saying same happening at school. This continued throughout that week.
- **28 August** [REDACTED] notifies parents of an act of alleged indecent assault that has happened to him at [REDACTED] School. This act was committed by another student [REDACTED]. [REDACTED] told his parents that *“[REDACTED] licked my willy”*.
- **28 August** Parents immediately reported this information to [REDACTED] School Principal [REDACTED] (via mobile phone conversation).
- **29 August** Parents sent email with written notification and details of this incident to [REDACTED] School Principal [REDACTED]
- **30 August Onwards**
  - [REDACTED] Parents keep [REDACTED] home from [REDACTED] School while recent reported incident was being investigated (for his safety).
  - Parents received minimal communication either by phone calls/emails updating them on the investigation process, from [REDACTED] School.
  - Parents had to make first contact with [REDACTED] School after reporting this incident.
  - [REDACTED] was not called in for an interview. Parents made request *“When will you be Interviewing [REDACTED] about this incident, what is happening?”*

- When parents asked why [REDACTED] was not called in for Interview? Principal responded by saying *“well you are keeping him home, and away from us, how are we to do this”*
- Parents were waiting for school to communicate with them and where more than willing to accommodate any interview request, if one had of been made.
- Parents believe this was a time wasting tactic in hope that due to [REDACTED] disabilities he would not be able to remember all/or part of important information for this interview.
- [REDACTED] School Principal [REDACTED], also informed Parents that they were not entitled to be present with [REDACTED] at an interview. [REDACTED] instead offered an alternative, that being *“an adult present that [REDACTED] was familiar with and felt comfortable around”*.
- Parents immediately consulted NSW Police [REDACTED] Branch to confirm this. They were advised that during any interview process with children/special needs and they were indeed entitled to be present.
- [REDACTED] Police Event No: [REDACTED]
- Same day an Officer from [REDACTED] Police Station called [REDACTED] School Principal [REDACTED] to notify her that [REDACTED] Parents are to be present at this interview.
- Interview takes place - present in interview School Principal, Other Staff Member (taking minutes) [REDACTED] PARENT, [REDACTED] PARENT, and [REDACTED] STUDENT.
- [REDACTED] clearly explains what happened to him and identifies other student involved as [REDACTED]. [REDACTED] used his name prompted by a visual card (photo) that was used during the interview process.
- [REDACTED] identified the area that the incident took place – by walking through the school hall and pointing outside the window too a large tree in the playground saying *“it happened there, behind the big tree”*.
- Parents requested a copy of minutes taken by [REDACTED] in this interview. After several requests by Parents and Solicitor on 27 June 2013 in a Letter of Demand, parents to date are yet to see minutes from this interview.
- After the interview process was finalised, discussions re: [REDACTED] returning to school safely began, parents asked/negotiated changes to be put in place to ensure [REDACTED] would be safe at [REDACTED] School.
- Principal offered the following management plan **a) temporarily split playground times so [REDACTED] and [REDACTED] were not in the playground together. b) temporarily put extra staff on playground duty c) suggested teacher training re: personal safety d) suggested student training re: personal safety.**
- Parents requested counselling for [REDACTED] after this incident.
- An [REDACTED] counsellor did not attend to meet with [REDACTED] until many weeks after the incident (and after a reminder requests from parents).
- The [REDACTED] counsellor was brought in from Newcastle, she therefore had no relationship/rapport built with [REDACTED].

- Parents requested to be present at counselling session/meeting, however they were advised this was not possible as Counsellor would just be spending time with [REDACTED] in conjunction with his normal school day routine.
- Parents did not receive written report re: this session/meeting and had to chase up the councillor to get any kind of feedback.
- The feedback was that [REDACTED] had a relatively good day and did not mention the incident with [REDACTED].
- From 29 August onwards Parents were made to feel isolated and victimised by the attitude and behaviour of the [REDACTED] School Principal [REDACTED] and some other staff members.
- On two occasions during this difficult time, Parents were spoken to disrespectfully and treated poorly by the [REDACTED] School Principal and some Staff Members. When the Principal's actions/reactions were brought to her attention by the parents she proceeded to apologise for her behaviour. She explained that she was dealing with some personal problems at the time (her husband was unwell) and that she was aware that this was impacting on her capacity to deal with this situation.
- Parents were advised by [REDACTED] School Principal [REDACTED], on 2 occasions to *"not say anything to, or approach Parents of [REDACTED] or other [REDACTED] Families regarding this incident"*.
- **September** Parent arrives at [REDACTED] School and witnesses [REDACTED] being physically removed from the school's main playground area and then watches as he is taken to a Lockable Structure external from the main school grounds.
  - Staff involved in this incident were [REDACTED] (school executive) and [REDACTED] (teacher's aide referred to earlier 3<sup>rd</sup> August entry).
  - Parent continues to observe as [REDACTED] is restrained and then detained in this lockable structure and left there unsupervised by [REDACTED] & [REDACTED] who both returned to the main school playground area. [REDACTED] could not be seen or supervised from the school office or any classrooms whilst he was being detained in this Lockable Structure.
  - [REDACTED] & [REDACTED] could not see the parent.
  - [REDACTED] & [REDACTED] did not engage in conversation with [REDACTED]
  - [REDACTED] & [REDACTED] each had hold of one of [REDACTED] hands/arms.
  - [REDACTED] & [REDACTED] had [REDACTED] feet dragging during this incident and also elevated from the ground at one point. [REDACTED] was squirming Kicking out and fighting to break their hold and escape his fate.
  - [REDACTED] was hysterical, screaming, swearing, crying, telling staff he hated them and asking them to let him out at the same time.
  - It was sunny, hot and the Lockable Structure area provides no shade. [REDACTED] had no hat and no water.
  - Lockable Structure named the "Top Playground" by [REDACTED] staff.
  - Lockable Structure named "The Cage" by [REDACTED] an 8.5 year old Intellectually Disabled Autistic Child. And some other [REDACTED] Students that we know.

- Parent's knowledge of this area is that the Lockable Structure was originally used as an area that classes were escorted to with staff members. So that they could play in the Wooden Cubby House which was inside. This cubby house was partially dismantled by another student at some time during some event, and therefore this area was deemed unfit for play and the escorted play times ceased.
- [REDACTED] does not think of this Lockable Structure as a safe and fun place to play. He thinks it is where bad kids go when they are naughty.
- [REDACTED] remains traumatised by the memories of being taken to this area.
- Witnessing this incident was horrendous for the parent and still causes trauma when revisited.
- This was the first we knew of the lockable structure being used for the purpose of detaining [REDACTED]
- Although behaviours were discussed openly and often between Parents and Staff throughout 2012 (via the communication book, meetings, face to face & phone calls) the consequences that [REDACTED] was being subjected to – *Being: [REDACTED] is regularly being physically removed by 2 adults and taken to a lockable structure external from main school grounds, and then left there unsupervised to apparently calm down...this was NEVER disclosed to his parents.*
- Even after observing this incident parents did not know the "extent of use" of this Lockable Structure for [REDACTED], until they received copies of his [REDACTED] School files that were requested by Parents Solicitor- [REDACTED] and received in September 2013.
- **19 September** After [REDACTED] School's removal procedure was exposed to Parents, and we had expressed our displeasure and concern about the way [REDACTED] behaviours were being managed, Parents were presented with their FIRST Behaviour Support Plan and Crisis Support Plan, requesting signatures.
  - These plans listed [REDACTED] behaviour issues, and the procedures that would be put in place when his behaviour escalated. This was the first time parents had heard or seen written the term Non-Violent Crisis Intervention Hold and the first time they were asked to acknowledge the use of the Lockable Structure known by the school staff as the "Top Playground".
  - This plan was signed only because parents felt backed into a corner, felt like there was no other option and they were in no way confident of being able to find an alternate educational placement for [REDACTED]
  - Parents both needed to work and had no care options for [REDACTED]
  - Parents were very concerned about [REDACTED] safety during these times of distress and clearly stipulated that he was NEVER to be left unsupervised during the use of Crisis Support Plan.
- **21 September** Parents notified class teacher in writing (via communication book) that they now understand [REDACTED] may need to be removed from an area when things escalate and become physical but they do not approve of him being left alone in an area outside of the schools main grounds unsupervised ever again.

- **15 November** [REDACTED] arrives home from [REDACTED] School very distraught. He had both feet full of Bindi. It took hours to tweezer them out of his feet and [REDACTED] was melting down throughout the entire process, screaming and crying in pain.
  - o When asked how this happened, [REDACTED] responded by telling Parents “that his shoes and socks were taken off him in the classroom, and he was then taken to “the cage” by the teachers”
- **16 November** Parents notified [REDACTED] School (via communication book) that they were not happy with this incident and requested information as to how this happened?
  - o Response received via phone call and parents were told that indeed [REDACTED] recount of this incident was correct and that his shoes and socks must be removed because he kicks out and this could cause injury to others.
  - o Parents were also told that they couldn’t get them back on his feet before removing him from the classroom and taking him to the Lockable Structure, so a decision was made to take him up there without them on.
  - o Parents were told that once behaviours had reduced and [REDACTED] was returned to the classroom, staff returned [REDACTED] shoes and socks to his feet, but were unaware that his feet were full of Bindi.
  - o Parents were advised that this would not happen again.
- **10 December** Parents ask in writing (via communication book) “how many times per day/week the Crisis Support Plan is being implemented? Is this method of behaviour management working or not?”
- **10 December** [REDACTED] Class Teacher responded to questions in writing (via communication book) saying “yes a record is kept of when CSP is implemented and yes it is working, and is not needed often”
  - o Parents were later to discover that this was untrue.
  - o After requested copies of [REDACTED] School files where received in September 2013.
  - o These files included some *a) Data on use of the Practice sheets b) Scatter Plots c) Crisis Support Plan Implementation Records d) Daily Diary Entries.* Going through these reports parents FIRST discovered that [REDACTED] was removed from areas within [REDACTED] School using the NVCI hold, and taken to the Lockable Structure “top playground” anywhere up to 6 times per day, time spent in Lockable Structure vary but range from 3 min – 12 min.
- **December** [REDACTED] could not wait for this School year to end. He was now so anxious about going near or into [REDACTED] School and seeing anyone connected with [REDACTED] School. This school year was nothing like his first year at the School. He is forever a changed young person after what he was exposed to throughout 2012 within this school.
  - o At the end of this year [REDACTED] told his parents “at school I need to be strong, [REDACTED] needs to be strong” parents ask “why [REDACTED]? what do you mean you need to be strong” [REDACTED] responded “so they can’t hurt me anymore, they hurt me a lot”

- When discussions are had about good behaviours at School and consequences for bad choices. [REDACTED] talks about “the cage” (Lockable Structure “top playground”) [REDACTED] says “they locked me up, they dragged me up there and locked me up” [REDACTED] says it really hurt my arms I told them to stop” he said “I called out for you mum to come save me, but you couldn’t hear me, could you?” he says “I tried to dig my way out but it was too hard” he says “mum you should have put suction cups on my shoes so I could climb the fence, it was the only way out”.
- He was highly anxious, had behaviours that he could no longer control at times, and had lost trust in adults, including those that he had known for a very long time. Family and Friends commented as many noticed the huge changes he was displaying. His self-esteem was at an all-time low.
- A long Christmas break from [REDACTED] School was a god sent for [REDACTED] and the [REDACTED] Family. It also allowed us time to seriously contemplate future School placement for [REDACTED].

2013

### Third Year [REDACTED] School

- New Classroom, New Classmates, New Teacher – Mr [REDACTED]
- Parents notified of class placement
- Parents have a conversation with [REDACTED] School Principal [REDACTED] regarding their thoughts on class placement dynamics, and their thoughts on the use of the Lockable Structure “top playground”.
  - [REDACTED] had such a volatile year in 2012, parents thought the mix of students that were going into the 2013 class alongside him would not be contusive to managing his ongoing behaviours at [REDACTED] School.
  - These concerns were heard but no action was taken to make any changes, parents where told “this is [REDACTED] placement, no changes will be made” no further placement can be offered.
- **4 February** First day back at School. Immediately we begin to see [REDACTED] behaviours at [REDACTED] School escalating. Communication Book has comments written by Class Teacher [REDACTED] such as [REDACTED] is Hitting, Kicking, Teasing, and Pushing.
  - [REDACTED] was immediately being moved using the NCVI hold to the newly used Lockable Structure being the “soft fall area” many times per day/week. This is an area the School began to use in 2013 in place of using the Lockable Structure “top playground”.
  - Parents asked why the Lockable Structure “top playground” was no longer being used. [REDACTED] responded by saying “oh no no...we don’t use that area anymore””. Along with an eye roll and a raised brow facial expression.
  - Parent also advised verbally by Class Teacher about how difficult [REDACTED] is.
  - Parents were advised by the school and by other classroom Parents about the level of “chaos” daily is this room. Students were smashing windows, smearing faeces, throwing items, fighting, kicking, screaming, biting, hitting, and teasing. As parents had thought, this classroom had immediately become

a volatile placement for [REDACTED], and would do nothing for their goal of trying to reduce the behaviours [REDACTED] displayed in this setting, but actually make them worse.

- Parents began to make arrangements to put [REDACTED] name forward for Department of Education Support Class Placement. [REDACTED] School was not a safe environment for [REDACTED] to continue his education.
- Paediatrician informed of all goings on at [REDACTED] School and writes a recommendation that states things are not working at current School and he would be better suited to a Department Support Class Setting.
- Parents began to pick [REDACTED] up from [REDACTED] School early or whenever they were not working. As the anxiety he was feeling due to this environment was overwhelming for him and for the [REDACTED] Family.
- **18 February** Parents used the Communication Book to let Class Teacher know some of [REDACTED] thoughts and feelings, that he had shared with them regarding his daily time spent at [REDACTED] School.
  - During calm talks about behaviour expectations [REDACTED] shared with his parents that he doesn't like doing morning Yoga and he said "it makes me feel all weird in the tummy".
  - When this information was transferred to Class Teacher [REDACTED] (via communication book) he responded "he might be anxious about coming to school but I don't think the activities are causing this anxiety".
- **12 February** Parents and [REDACTED] attend [REDACTED] School meet and greet BBQ. A time to view classroom and have a quick conversation with Class Teacher at the beginning of the new school year. Parents were very upset about how [REDACTED] workstation was isolated from all other students (him at one end of the room, them at the other). This classroom was sad, dark and miserable it appeared to have a lack of resources, colour, interest and personality. We asked why was there no work on display ect...and we were told that they don't put much of this up because it gets ripped down and destroyed by classroom students.
- **18 February** OT Assessment that was requested in 2012 by Parents was completed by [REDACTED] School Occupational Therapist. In conclusion it states [REDACTED] behaviour is attributed to sensory seeking needs, however attention seeking skills, social skills and communication cause ideation difficulties. Dysfunction across all areas of sensory seeking integration modulation. Interventions suggested to assist [REDACTED] at School and Home.
- **26 February** Parents are presented with a copy of a new crisis support plan. It was explained verbally that the Lockable Structure "top playground" was no longer being used, copy of this plan was signed however concerns over use of NCVI hold still not being heard by staff.
- **6 March** Parents notified (via communication book) that data and behaviour observations were being gathered, regarding [REDACTED] difficulty in applying attention, direction and to not joining in on teasing, yelling and annoying others.
- **March** Parents were advised that a video was taken of [REDACTED] class, to allow insight into classroom behaviours and help staff work on strategies to improve classroom

“Chaos” as it was explained to [REDACTED] Parents by [REDACTED]. Parents immediately requested to view this video and were informed verbally by [REDACTED] that this request would be granted. After a period of a week or so, no further information was given to Parents so they again requested to view the video, at second request Parents were told they could view video only if all families (related to all students in this class) agreed to the viewing. After a period of another week or so, no further information was given to Parents. On third request parents were told No, you can’t view this video. Not impressed by the lack of information relating to acceptable viewing of this video parents made a forth request, this final time they were told they could view an edited version of the video. Parents have still not seen video to date. Parents were not advised in writing prior to this video being taken of [REDACTED] in his classroom.

- **14 March** Parents (notified via communication book) that [REDACTED] had an up and down day and had spent time in the Lockable Structure “soft fall area”. [REDACTED] had tried to climb the fence surrounding this area and got stuck by his Torso over the top of the fence. Red marks on stomach, ice provided for any swelling.
- **10 April** IEP Meeting. At this meeting parents formally notified [REDACTED] School that [REDACTED] will be transitioning to a Department School Setting as soon as the Department Selection Panel has found suitable placement. Parents request that [REDACTED] remaining time at [REDACTED] School be a time to concentrate on coping skills within a classroom setting. An increase in the academic side of the class program was discussed, but parents explained that they were not interested in an increase of academics for [REDACTED] at this point in time. And explained they would re-address this part of [REDACTED] education plan once he is settled into new Department of Education Setting.
- **1 May** [REDACTED] bitten on the back in the playground, ice applied no other information provided.
- **8 May** Class Teacher [REDACTED] (via communication book) informs parents [REDACTED] has had a rough couple of days. He said [REDACTED] is very defiant and has been hitting out at teachers and classmates. He goes on to explain that he was reducing his choice time and increasing his academics and this could possibly be a trigger for [REDACTED] upset. Obviously information transferred at the IEP meeting on 10 April was not respected. Parents made it very clear that they did not want an increase in academics (causes unnecessary heightened levels of anxiety in [REDACTED] are not needed at this time).
- **16 May** Parents called by School staff after [REDACTED] eye is injured at [REDACTED] School. There was an incident during morning Yoga session. It is documented that [REDACTED] was lashing out at students and staff. Whilst Class Teacher [REDACTED] was trying to remove [REDACTED] and place him at his own personal space area, the heel of his shoe made contact with [REDACTED] eye.
  - In the initial reporting phone call staff called it a small cut to the eye.
  - Staff reported that [REDACTED] was offered ice for the injury and was happy to go out on playground to play.

- On returning to classroom this injury looked worst, so a decision was made to call parents.
- This incident happened at 10.25am Parent was notified after Lunch Time.
- This notification (by phone call) was made by the [REDACTED] School Secretary.
- On arrival at [REDACTED] School, Parent was not met by School Executive or Classroom Teacher to further explain how such an incident could occur between Teacher and Student. No documentation regarding this incident was offered to Parents. Parents received critical incident reports when they received copy of [REDACTED] file 27 June after Solicitor [REDACTED] sent letter of demand requesting these files.
- [REDACTED] recount of this incident was very clear and he told his parents that he did not want to do Yoga and he was trying to tell the teachers this. [REDACTED] said his Teacher [REDACTED] told him to "move away and go to your own area" [REDACTED] told parents that he grabbed hold of the bottom of [REDACTED] leg. He then told us that [REDACTED] yelled at him "let go [REDACTED], let go [REDACTED]" and shook his leg. [REDACTED] then said "he kicked me in the face mum" [REDACTED] also said that he was "telling the teachers it hurt really badly but they didn't care".
- **16 May** [REDACTED] taken immediately to GP Dr [REDACTED], examination notes state. Teacher's foot hit around right eye small linear scratch along lateral right lower eye lid, no corneal uptake. Close observation review if necessary.
- **16 May** Parents had a phone call from another classroom student's mother that afternoon. This parent asked "what happened in the classroom today?" Her son had arrived home and told her that [REDACTED] was kicked in the face by Class Teacher [REDACTED] [REDACTED] I told her that this had happened and could she please tell me what her son had said about the incident. She called her son over to the phone so that we could both hear him talking and she asked "what happened to [REDACTED] In the classroom today" her son responded "[REDACTED] kicked him in the face" she said "how did this happen" and he said "[REDACTED] didn't want to do Yoga and wouldn't move to his area, he grabbed a hold of [REDACTED] leg and [REDACTED] said "let go [REDACTED], let go [REDACTED], and he kicked his leg" he said "[REDACTED] then was holding his eye and crying, but they didn't help him at first".
- **16 may** this was [REDACTED] final day at [REDACTED] School.
  - [REDACTED] was distraught, anxious, screaming "please don't make me go back there ever again".
  - Parents made their final decision on this evening to not return [REDACTED] to this school.
  - Placement with Department of Education Support Class was not yet approved, therefore [REDACTED] had no school placement.
  - As a result of this incident [REDACTED] was unable to work and contribute to [REDACTED] families financials.

### Ongoing Effects of [REDACTED] School Exposure

- The excessive use of the Lockable Structure “top playground” at [REDACTED] School has had an ongoing traumatic and detrimental effect on [REDACTED]. His sense of trust in adults has been compromised. And his sense of safety has been spoiled. His reaction to everyday situations has changed forever, he immediately begins to prepare for a fight, as this is what he became familiar with. The heavy handed, man handling, tactics that were used over and over again by [REDACTED] School Staff, in an attempt to curb [REDACTED] unwanted behaviours, effectively encouraged them to enhance further.
- [REDACTED] is now fearful of:
  - Attending any School Environment
  - The [REDACTED] School Environment – through picture or video.
  - [REDACTED] School Staff- he becomes very fearful & anxiety ridden when he sees any staff from this school within the community, or through picture or video.
  - [REDACTED] School Students/Friends – relationships did suffer as being around them brings back anxious feelings and memories.
  - Other adults that are in a position that involves supervising/directing [REDACTED] eg. New school, Soccer. He trusts Parents only.

### Department of Education Placement Information

- **22 May** Department of Education School Counsellor Assessment Report conducted to ascertain [REDACTED] current level of functioning so that placement panel can find appropriate department school setting.
  - A Welchsler Intelligence Scales for Children was administered. Results show that [REDACTED] Intellectual functioning was in the moderate range of intellectual disability.
  - A letter was presented by parents to those conducting the assessment that explained that after the recent trauma [REDACTED] had been exposed to at [REDACTED] School it was not in his best interest to conduct this test at this time.
  - It was explained to parents that if assessment was not completed placement panel would not accept his application.
  - As per the letter [REDACTED] did not co-operate with examiner and assessment was not completed.
  - These assessment results therefore were not an accurate representation of [REDACTED] ability.
  - No parent wants to carry around for 4 years a diagnosis for their child that was only given to them because they didn't or couldn't fully participate in an assessment.
  - Having an incorrect diagnosis also means the Department can/most likely will, then be giving you an incorrect class placement. Not suitable situation.

- [REDACTED] School Counsellor and Examining Officer tried to cover up this messy situation by saying that the letter was not transferred from one to the other and that a re-assessment date had been set and that [REDACTED] did not attend this.
- This was not the case a re-schedule was required and the examiners could not accommodate that request.
- After panel convened Placement for [REDACTED] in a Multicategorical Department Class was recommended, and if this proved to be not suitable due to [REDACTED] levels of distress in educational settings then Distance Education was recommended.
- **3 June** [REDACTED] had initial appointment with Clinical Psychologist [REDACTED]
- **18 June** [REDACTED] expresses concern in Therapy about attending a new school he said “but someone like [REDACTED] might like my willy”.
- **27 June** Parents instruct Solicitor [REDACTED] from [REDACTED] to act on their behalf and a letter of demand is sent to [REDACTED] School.
- **4 July** [REDACTED] acting for [REDACTED] respond to letter of demand with several questions for further information.
- **17 July** Department of Education Placement Arrangements Commence.
- [REDACTED] begins Third Term in Year 4. In a Multigategorical Department Support Class Placement
- Teacher– Ms [REDACTED]
- [REDACTED] Public School Principal [REDACTED]
  - A negotiated attendance plan was devised which clearly outlined a transition period for [REDACTED] until he was capable of being at school full time.
  - Since 16 May Mother [REDACTED] still unable to work and contribute to family finances as [REDACTED] only able to attend school for 2 hours per day. Very slow transition due to symptom of Trauma at his past educational setting [REDACTED] School.
  - A risk management plan and behaviour management plan presented to parents was not signed by parents.
  - Parents advised by their Solicitor on 17 July to not sign if not happy with this plan.
  - Up front Parents requested that the use of the NCI hold to restrain [REDACTED] and/or escort [REDACTED] to other areas of school NOT BE USED and it be removed from the plan. This method has caused trauma to [REDACTED] when used at [REDACTED] School.
  - Department School refused to remove this component from the plan.
  - They did send out an NCI hold instructor to meet with parent and demonstrate/educate parent on the need and proper execution of this hold.
  - Parents still wanted it removed from plan this did not happen so they did not sign this plan.
- **20 August** Reply sent by [REDACTED] family to [REDACTED] questions and request for further information completed.

- **2 September** Independent Internal Investigation requested by [REDACTED] Family sent to [REDACTED] Principal by Solicitor acting on our behalf - [REDACTED].
- **September** we received copy of [REDACTED] school file.
  - This is when we discovered that [REDACTED] was being removed from areas in [REDACTED] School and taken to the Lockable Structure “top playground” prior to parents being presented with first crisis support plan on 19 September 2013 and signing it.
  - Scatter plot reports list that he was being moved to this area many times PER DAY, PER WEEK, PER MONTH using the NVCI hold.
  - Some of the reasons listed for his removal from an area are non-compliance, screaming, swearing, hitting.
  - This now explains [REDACTED] complaint made on 3 August 2012 saying that [REDACTED] was hurting his hand.
  - We had no idea this was happening to [REDACTED] with this frequency and level of volatile actions until these reports were in our possession.
- **8 October** Complaint lodged with the Australian Human Rights Commission.
- **27 November** Australian Human Rights Commission respond to complaint lodged against [REDACTED] School and Principal.
  - Direct Disability Discrimination - Outcome was that it was not clear from the information before the commission how [REDACTED] was treated less favourably than a person without disabilities in the same or similar circumstances.
  - Indirect Disability Discrimination - Outcome not clear what requirement or condition [REDACTED] was required to comply with that would have the likely effect of disadvantaging people with the same disability as him and not reasonable in the circumstances.
  - Next step...provide further information to pursue complaints.
  - Solicitor advised that if we wish to further pursue complaints against [REDACTED] School that we would need to take civil action and we would need another Solicitor to act on our behalf.
  - By this time [REDACTED] has become increasingly unwell due to stress caused by managing and negotiating [REDACTED] educational needs, and all that has been involved in the past 2 years. Mother had no support and felt the need to take a mental break from it all. Parents did not pursue further at this time.
  - Now that [REDACTED] is settled and on the right track this stress has shown itself within [REDACTED] and poor health is evident.
  - [REDACTED] informs GP of all stress related issues and is placed on a mental health plan.
- **December** [REDACTED] had a very smooth, slow transition into Department Public School. I have copies of Communication Log Books showing daily exchange of information between [REDACTED] Class Teacher [REDACTED] and myself, and we also had many opportunities for face to face exchange of information. Lots of feedback that was very positive such as.....Great Day, Trying Hard, Working Well, and Calm. By all accounts he appeared to have a really GOOD transition into the school and they

often mentioned how they had not seen any of the previously reported behaviour issues in this setting.

- Parent [REDACTED] was now able to return more regular hours of work 10-2pm
- During the Christmas School Holidays [REDACTED] and Parent crossed paths with the [REDACTED] Principal [REDACTED] in our local Narellan Town Shopping Centre. [REDACTED] is immediately scared by having seen her, this incident sends him into shut down and then melt down for the remainder of that day, this was a very distressing thing to witness from a child.
- [REDACTED] also had a very difficult time at his Soccer Club [REDACTED] Football Club this past season. As many of the players were students of [REDACTED] School. Seeing these students triggered memories and behaviours, anxiety and shut down and melt down would follow. He was not able to enjoy the experience as he once had and should have been able to.

## 2014

### Second Year Department School

- Same Classroom, Some New Classmates, Teacher Job Share – Ms [REDACTED] and Mrs [REDACTED]  
[REDACTED] School Principal [REDACTED]
  - Feedback from the beginning of this year was a little up and down as per communication book and face to face. Some comments such as [REDACTED] is restless, unsettled, demonstrating refusal, protesting, making high pitch noises ect....
  - First Term is completed and things look to be “not going very well”, lots of communication between Parents, Staff and School Executive trying to assist [REDACTED] in re-settling into [REDACTED] Public School for the new year.
  - Parents feel the change in dynamic – Teachers Job Sharing and the fact that [REDACTED] was not able to be individually supported in the mainstream playground due to budget/staffing shortages- is definitely a trigger for this shift in his behaviours between last year and this year.
- **April – June** Second Term and we begin to see comments in reports and face to face communication describing the problems [REDACTED] was having at [REDACTED] Public School. Examples:
  - [REDACTED] *is Inattentive*
  - [REDACTED] *does not want to learn*
  - [REDACTED] *needs a shift in attitude*
  - [REDACTED] *Reading and writing are difficult for [REDACTED]*
  - [REDACTED] *is uncooperative*
  - [REDACTED] *has a Lack of confidence (repeated many times- every subject)*
  - [REDACTED] *has no motivation*
  - [REDACTED] *is always dependant on teacher assistance*
  - [REDACTED] *shows minimal participation*

- [REDACTED] *needs to be constantly offered an incentive*
- [REDACTED] *needs to be in the right frame of mind to participate*
- [REDACTED] *will not involve himself*
- Receiving this kind of feedback and information was a huge red flag for Parents. Something had obviously triggered behaviours to return, similar to those we had not seen since the traumatic time spent at [REDACTED] School.
- **July – September** Third Term still at [REDACTED] Public School. [REDACTED] is now back on a reduced hours plan as he is unable to complete a full day at school without incident.
  - Parent [REDACTED] is now again unable to work and contribute to family finances as [REDACTED] only able to attend school for 2 hours per day. Another very slow transition due to the return of symptoms of trauma from past educational setting [REDACTED] School.
- **22 August** , 8 September, 29 September, Hearing tests completed. Some sensitivities noted. Hearing Good.
- **10 September** Commence Psychology services at [REDACTED] Developmental Clinic and also Occupational Therapy once therapist was available.
- **September** After a visit to Paediatrician [REDACTED] to update on what is now happening at school and find out how best we can help [REDACTED] to reduce anxiety and re-establish himself as a productive student at [REDACTED] Public School.
  - Paediatrician informs that after all [REDACTED] has been through in past educational settings, it appears he is now showing signs of suffering from Depression and we need to look at taking immediate action to assist him.
- **September** Meeting with [REDACTED] Public School Support Class Team is organised to discuss this new diagnosis and what we need to put in place to assist [REDACTED]
  - Part Day exemption plan remains in place for [REDACTED] at [REDACTED] Public School.
- **11 September** Notes from that meeting are as follows: *Below is a list of what we are planning to put in place, or have already put in place for [REDACTED]. To assist in reducing the increase in behaviours at school and the new diagnosis of Depression. At this time we are obviously very concerned for [REDACTED] we are fully committed to ensuring that [REDACTED] Holistic Development and Wellbeing gets back on track at School, and that ‘everyone’ including [REDACTED] is able to enjoy learning in a safe environment at [REDACTED] We thank you for your many offers of assistance and for being so understanding and flexible always.*

### **Home Plan**

- *Immediate Break from social pressures that are impeding [REDACTED] emotional development by increasing his anxiety and depression (School & Soccer)*
- *Mum to encourage one on one social interactions – with adult assistance and structured play*
- *Psychology intervention – with school visits eventually*
- *OT intervention – with school visits eventually*
- *Ongoing one on one self-confidence/self-awareness lessons – lots of work on appropriate expression of feelings & thoughts and how our actions make others feel*
- *Hearing tests*

- Behaviour eye specialists
- Application in for a Smart Pup- autism/anxiety trained pup that can become friend, offer him unconditional love and support with calming techniques
- Increase physical activity – calm long walks, swimming, horse riding
- Private singing lessons – great voice... hope this will increase confidence levels
- More Frequent GP visits
- Frequent paediatrician visits
- Slowly ween off anxiety medication
- Increase vitamins and slow changes to diet
- Massage being incorporated to help him learn what the feeling of being relaxed is! Hopefully leading towards being able to self-regulate (just don't mention the word YOGA)

## **School Plan**

### Short Term Goals

- attend school for morning sessions only 2hrs to cover academic component of education.
- no playground time
- be involved in discussions about behaviour and possibly help in setting classroom/ rules
- given a visual list of acceptable and alternative behaviours
- to increase reflecting on feelings in school environment eg...tiff suggested a worry box, and I like the thermometer feelings idea (in when my autism gets to big book)
- and Staff to work on fostering healthy rapport with one another (one new staff member at a time would be great) – he can't be reliant on one staff member and needs to learn to enjoy change.
- Assist in fostering some friendships for – appropriate, and monitored (one on one to start)
- Further education for all students regarding difference and tolerance
- Regular observations completed to monitor progress and feedback and communication with family to continue (is already wonderful)
- Slowly increase hours when progress is shown and sense of belonging increases
- Investigate option of funding for one on one support for on the playground – when ready to return
- Structured play for playground – when ready to return
- Investigate possibility of a functional and less intrusive playground area for the support kids (choice based) – funding options/grants? I may be able to assist with this?

### Long Term Goals

- feel a sense of belonging in his school environment – this has been lost! and will take time to develop again, school community not able to warm to because of his previous actions.
- learn to self-regulate feelings

- [REDACTED] be able to be a full time productive member of the [REDACTED] community and find a love of learning.

#### Long Term Other

- If ongoing observations show that after implementing our changes in the school environment we are not seeing an improvement, family will explore full time distance education options, and allow another special student a placement option at [REDACTED]
- This was a productive meeting with all in attendance on board in trying to improve situation at [REDACTED] Public School to assist [REDACTED] in re-settling, increase his face to face hours, and eventually being able to remain in this educational setting full time.
- **6 December** Even with all of the above interventions in place things were not improving and a final decision was made as per written recommendation by [REDACTED] from Department of Education, on 22 May 2013 for parents to request enrolment to the Distance Education Support Unit for a Year 6, 2015 commencement. Due to [REDACTED] negative experiences in previous education setting, and after all other options had been exhausted it is now agreed that [REDACTED] requires a more highly individualised program that is delivered in a one on one environment.
  - o This Access Request was sent by [REDACTED] Principal at [REDACTED] Public school with all supporting documentation.
  - o Since July [REDACTED] is still unable to work and contribute to family finances as [REDACTED] only able to attend school for only 2 hours per day. Very slow transition due to symptom of Trauma at his past educational setting [REDACTED] School.
  - o [REDACTED] educational circumstances have now had massive roll on effect on the [REDACTED] family's mental health and finances.
  - o [REDACTED] family are unable to keep up with mortgage payments on their home.
  - o A decision is made to sell the family home and return to rental market to relieve some financial pressure and allow them to fund intensive one on one therapy to assist [REDACTED] to regain confidence in his life.

#### 2015

- **1 February** [REDACTED] is being informally home educated, parents not receiving any assistance re: curriculum or finances. Parents still waiting for Distance Education Support Class Placement acceptance.
- Due to his symptoms of Anxiety and Depression [REDACTED] is not able to attend school and therefore is absent from [REDACTED] Public School for the whole of TERM 1 Tuesday 27 January to Thursday 02 April. This was in consultation with School Staff and his Paediatrician Dr [REDACTED]
- **11 February** Dr [REDACTED] writes support letter re: Distance Education Program is best suited to [REDACTED] needs.
- Since July 2014 [REDACTED] still unable to work and contribute to family finances as she is full time carer and educator for [REDACTED]
- **15 April** [REDACTED] family home has sold and decision is made to move up to [REDACTED] in NSW. This decision was heavily influenced by [REDACTED] inability to cope

when seeing [REDACTED] School staff or students out in his local community. He was fearful of these interactions and they resulted in shut downs and melt downs always.

- **21 April** [REDACTED] Commenced in the NSW Distance Education Support Unit.
  - [REDACTED] Distance Education Class Teacher - [REDACTED]
  - Our Goal was to re-engage [REDACTED] in Learning, remind him he is always safe and assist him in achieving his personal best with no threat of physical or psychological harm.
  - Parent [REDACTED] is now permanently unable to work and contribute to family finances as she is full time carer and Tutor for [REDACTED] whilst he engages in his one on one Learning Program.
  - The effects on [REDACTED] of past anxiety and trauma relating to his education are very visible when he is presented with his academic program. He shows resistance and does not believe in himself. Tutor trying very hard to change this mentality for [REDACTED] future success.
- 7 July** Intensive One on One Autism Therapy, Occupational Therapy, Music Therapy and Psychology commences. [REDACTED] is engaged in 1 hr per day, 4 days per week at [REDACTED] Autism Services - [REDACTED], [REDACTED] Music Therapy - [REDACTED]
  - Parents are funding this Therapy.
- **16 December** Primary School and Distance Education program for 2015 finishes successfully for [REDACTED] He tried very hard to reach personal goals in each subject, and is settling into his new lifestyle and his program.
  - [REDACTED] is taken off anxiety medication. After a period of transition, he is doing well.

## **2016**

- **28 January** [REDACTED] had a smooth transition into High School, Year 7 Life Skills program – remaining with Distance Education Support Unit NSW. Parent [REDACTED] delivering his curriculum as his Tutor.
  - The effects on [REDACTED] of past anxiety relating to his educational settings are still visible, when he is presented with his academic program. He shows resistance and does not believe in himself. Tutor trying very hard to change this mentality for [REDACTED] future success.
  - Intensive One on One Autism Therapy, Occupational Therapy, Music Therapy and Psychology re-commences for the year. [REDACTED] is engaged in 1 hr per day, 4 days per week at [REDACTED] Autism Services - [REDACTED] Music Therapy - [REDACTED] Parents are still funding this Therapy.
  - Parent [REDACTED] also benefits from learning techniques in this one on one therapy sessions and is slowly on a path to better mental and physical health, moving forward now the stress of [REDACTED] past educational incidences and disappointments are behind the family.
  - Distance Education is however an extra burden on [REDACTED] as she is the soul person able to deliver an education program to [REDACTED] and also not able to work and therefore contribute to the family's finances.

- **7 March** National Disability Insurance Scheme Plan commences for [REDACTED] Finally some relief for the family. Recipient [REDACTED] is now able to access services needed, that will be funded by this Scheme.
- **5 August** Parents responded to a request made for stories to support an ABC investigation that was looking into abuse & corruption associated with students with disability within NSW schools. Working towards establishing a Royal Commission and/or Parliamentary Inquiry into any/all reported cases.
- **10 August** ABC's [REDACTED] conducts Interview with [REDACTED]. [REDACTED] is also present – [REDACTED] NSW.
  - After this interview [REDACTED] begins investigating all claims, and requests reply from [REDACTED] School.
- **15 August** an Extract from an email received by [REDACTED] ABC forward to [REDACTED] Family written by [REDACTED] at [REDACTED] School.
  - *"From the information you have provided we cannot be certain who has made these allegations about our work at the ..... School. However, we are aware of allegations made by a parent at that school three years ago which closely resemble the allegations in your email below. If this is the same case, then all the allegations were fully investigated internally and externally at the time in line with our policies and procedures. None of the allegations was found to be sustained"*
- **15 August** [REDACTED] family contacted by phone, first time by BOSTES (NESA), then followed up by email and letter, investigation begins – [REDACTED]
- **16 August** Story goes to air ABC 7.30 Report.
  - Both other media and social media pick up on story.
- **24 August** [REDACTED] family meet with [REDACTED] Solicitors – Newcastle.
- **24 August** Inquiry into the provision of education to students with a disability or special needs in government and non-government schools in New South Wales is announced and submissions begin being accepted.
- **8 September** [REDACTED] release response to recent media coverage. They refer to the "Lockable Structure" as a Playground and state that the playground was used for the young person to have a safe place for a few minutes to calm down. They go on to give stats on the fence and how it meets requirements. They also state that allegations were "properly" investigated at the time, and then mention the currently commenced 15.8.16 BOSTES investigation.

## 2017

- **17 February** NESA (Previous BOSTES) investigation outcome received. Inspector found that during 2012/13 the School had in place policies and procedures for supplying a safe and supportive environment for students. Inspector finds that the school did not supply evidence of fully implementing some aspects of these procedures during 2012/13. The school advised of outcome and plans to address areas of improvement, investigator will monitor school throughout 2017.

## **Recommendations**

- **Improve Supervision** – ongoing staff training, retraining/reprimanding for those found negligent.
- **Provide Safe & Supportive Environment** - ongoing staff training, regular monitoring of all schools.
- **Staff Report on Negligent Behaviour** – allow whistle blowers an avenue to come forward without retribution.
- **Students with Disability Report on Negligent Behaviour** – give students a voice, take their complaints seriously, as would a non-disability students complaint would be. Allow their recount of situations to be heard.
- **Terminate use of all Physical & Psychological Restraints eg. NVCI Hold** - harsh penalties should apply when found to be used.
- **Terminate use of Wrongful Imprisonment** – harsh penalties should when found to be used, termination and legal action.
- **Eliminate Threats of Authority** – retraining in appropriate communication, conduct and behaviour management for all staff, harsh penalties apply for those found using threats and intimidation.
- **Static Monitoring of Reporting Skills** – all reporting must be up to date and legitimate. No destroying/loosing reports or parts of files, harsh penalties apply when not complied with.
- **Legitimate Investigation Skills** – complaints met with respect, correct procedures followed, correct departments notified, no “in house” investigating, staff stood down until investigations are complete.
- **Appropriate Action** – staff terminated when required, update/change policies if needed, monitor all changes. Students and Families offered apologies when it is found duty of care has been breached, students and families access pastoral care, reconciliation meetings conducted, students assisted with placement options if necessary, staff conduct and behaviour remains appropriate throughout all proceedings.

## **Summary**

My Recommendations are my summary. All Students with Disability have a right to a safe educational environment as do their non-disability peers. Their concerns should be heard, reported in serious manner and dealt with according to correct policy and procedure. Parents of those children should also be heard and treated with respect, with schools and staff upholding high standards of professional interactions at all times.

26 February 2017